



## ***City of Gaithersburg***

31 South Summit Avenue  
Gaithersburg, Maryland 20877

**DRAFT**

### Mayor and City Council Regular Session Minutes City Hall - Council Chambers Monday, May 20, 2013

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A Mayor and City Council Regular Session was called to order with Mayor Katz presiding. Council Members present: Jud Ashman, Cathy Drzyzgula, Michael Sesma, and Ryan Spiegel. Absent: Marraffa. Staff present: City Manager Tony Tomasello, City Attorney Lynn Board, Director of Public Works Jim Arnoult, Director of Planning and Code Administration John Schlichting, Director of Community and Public Relations Britta Monaco, Community Planning Director Trudy Schwarz.

#### **I. CALL TO ORDER**

#### **II. PLEDGE OF ALLEGIANCE**

The Pledge was led by Troop 291 from Thurgood Marshall Elementary School.

#### **III. INVOCATION**

In lieu of an invocation, Mayor Katz called for a moment of silence.

#### **IV. APPROVAL OF MINUTES**

##### **A. Regular Session Held April 15, 2013**

Motion was made by Jud Ashman, seconded by Cathy Drzyzgula, that minutes of the Regular Session held April 15, 2013, be approved.

Vote: 4-0

#### **V. PRESENTATIONS**

##### **A. Certificate of Congratulations Presented to Principal Carol Goddard of Gaithersburg Middle School for Receiving the Distinguished Educational Leadership Award**

Principal Carol Goddard was not in attendance to receive recognition. Each year one Montgomery County Public Schools principal is selected to receive The Washington Post Distinguished Educational Leadership Award. This educator is chosen by their school system for going above and beyond their day-to-day duties to create exceptional educational environments. Carol Goddard, Principal at Gaithersburg Middle School since 2005, is this year's winner. She is very involved in the school and business communities.

**B. Proclamation of the Mayor and City Council Designating May 2013 as “Asian Pacific History Month” in the City of Gaithersburg**

Mayor Katz was joined by Thomas Tran, Director of the Association of Vietnamese Americans and a member of the Multicultural Affairs Committee, and Director of Parks Michelle Potter, to recognize Asian Pacific Americans throughout the month of May. Each year, the Multicultural Affairs Committee chooses a different Asian country to focus on and celebrate. This year, the Committee paid tribute to Vietnam and to the Vietnamese Americans that have made Gaithersburg their home. The committee hosted a celebration and had the opportunity to enjoy artwork, music and food of the Vietnamese culture. The proclamation was accepted by Mr. Tran.

**C. Proclamation of the Mayor and City Council Designating May 31, 2013 as “Water Safety Day” in the City of Gaithersburg.**

The City of Gaithersburg, in partnership with Montgomery County and the City of Rockville, will host the third annual Water Safety Day at the Gaithersburg Water Park on Friday, May 31, 2013. Mayor Katz joined by Michele Potter, Director of Parks and Recreation, presented a proclamation to Jennifer Mogus, Community Facility Manager, designating May 31st as "Water Safety Day" in the City of Gaithersburg.

**D. Proclamation of the Mayor and City Council Designating May 19-25, 2013, as “National Public Works Week” in the City of Gaithersburg**

The City of Gaithersburg, along with the American Public Works Association, recognized Public Works Week, which will be celebrated May 19-25. The theme this year is "Because of Public Works..." and is about the quality of life brought to communities around the world. Mayor Katz was joined by Jim Arnoult, Director of Public Works, to present the proclamation to Mark Scafide, Public Works Operations Superintendent.

**VI. PUBLIC COMMENTS**

There were no speakers from the public.

**VII. FROM THE MAYOR AND CITY COUNCIL**

Mayor Katz along with his colleagues, staff, and the public, applauded the leadership of Council Member Jud Ashman and his involvement for a successful Gaithersburg Book Festival held in Olde Towne on Saturday, May 18th.

**A. Announcements**

- a. After Executive Session Held May 6, 2013
- b. Upcoming Work Session
- c. Planning Commission Vacancies
- d. Commission on Landlord - Tenant Affairs Vacancies

**Jud Ashman**

1. Announced that the Mayor and City Council are seeking to fill two (2) vacancies on the Commission of Landlord-Tenant Affairs; one (1) full time

tenant representative and one (1) alternate tenant position. All applicants must reside within the corporate City limits. Resumes and letters of interest should be submitted via U.S. Mail to: Mayor and City Council, 31 South Summit Avenue, Gaithersburg, Maryland 20877, or send via email to: [cityhall@gaitthersburgmd.gov](mailto:cityhall@gaitthersburgmd.gov). For more information visit the City's website at [www.gaitthersburgmd.gov](http://www.gaitthersburgmd.gov).

2. Provided an overview of the 2013 Gaithersburg Book Festival and commended many individuals. Unofficially, he stated that there were approximately 18,500 in attendance, despite the rain. Council Member Ashman applauded, thanked, and recognized his colleagues, the partners/sponsors, volunteers, the committee and outstanding staff for their input and involvement with the numerous components to organize such an event. The annual festival was a day filled celebrating authors, books and literary excellence. In addition, activities included author appearances, discussions, book signings, writing workshops, a Children's Village, onsite book sales, literary exhibitors, food and much more. Planning for the fifth annual Gaithersburg Book Festival is underway and scheduled for Saturday, May 17, 2014 from 10 a.m. to 6 p.m., on the grounds of City Hall in Olde Towne, Gaithersburg, Maryland. Spoke on those involved in the vision and the goal to become a cultural leader in the region.

#### **Ryan Spiegel**

1. Spoke of his experience and involvement as an elected officials and resident with the mentioned festival and expressed amazement to receive the great comments from the public and how they perceive the festival. He saluted all those involved.
2. Congratulated and thanked the members of the Multicultural Affairs Committee for hosting the Asian Pacific Americans celebration held earlier.
3. Offered thanks and thoughts to the service members here and abroad and to the military veterans for their service.

#### **Cathy Drzyzgula**

1. Echoed congratulations to Council Member Ashman, staff and the many volunteers for a great festival. Attendees expressed enjoyment and had the opportunity to experience new areas in literature.
2. Attended several meetings on water quality. Traveled to LaPlata to join others from the state government and provide updates. Recommendations are expected to go to the State Legislatures by the end of June. In addition, during the Council of Governments Chesapeake Bay and Water Resources Policy Committee meeting, the Regional Environmental Protection Agency Administrator attended to discuss cost, available funding, and prioritizing needs. Shared that the Crown Farm development issue provided an opportunity to talk about the local perspective.
3. Attended an Academy for Excellence Program meeting sponsored by the University of Maryland Public Policy School. The school is looking to improve the program, provide easier access to participate, and better serve the needs of local jurisdictions.
4. Attended the Beloved Community Celebration Art for the Ages Reception at Asbury. Throughout the year collaborating groups participated in community activities and programs. Participants included Asbury

- residents, student union members from Gaithersburg High School, community leaders, and other supporting groups.
5. Enjoyed the reception honoring Asian Pacific Americans Month and mentioned her daughter's college roommates are from Vietnam.
  6. Announced that the Mayor and City Council are seeking to fill two (2) full time member vacancies on the Planning Commission in July. The incumbent Planning Commissioners have requested reappointment. Resumes and letters of interest should be submitted by 5 p.m. on Friday, June 7, 2013, via U.S. Mail to: Mayor and City Council, 31 South Summit Avenue, Gaithersburg, Maryland 20877 or send via email to: [cityhall@gaitHERSBURGMD.GOV](mailto:cityhall@gaitHERSBURGMD.GOV). For more information visit the City's website at [www.gaitHERSBURGMD.GOV](http://www.gaitHERSBURGMD.GOV); or contact Community Planning Director Trudy Schwarz at 301-258-6330.
  7. Attended the Gaithersburg Police Foundation fundraiser and thanked the organization for all they do to support the City's Police Officers.

#### **Mike Sesma**

1. Announced that a closed meeting was held at City Hall by the Mayor and City Council on Monday, May 6, 2013, at approximately 9:20 p.m., pursuant to a motion adopted unanimously. The meeting was proposed to be closed pursuant to the State Government Article of the Annotated Code of Maryland Section 10-508(a)(4) to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State. The topic discussed was the Y Site, the establishment and/or expansion of a local business. Present at the meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, Sesma and Spiegel, City Manager Tomasello, City Attorney Board, Director of Economic Development Lonergan, Director of Planning and Code Administration Schlichting and Director of Housing & Community Development Kauffmann. Upon conclusion of the discussion, the closed meeting was adjourned at approximately 9:27 p.m.
2. Offered congratulations to the recent college graduates and their families.
3. Mentioned the recent devastating tornado that ripped through Moore, Oklahoma where lives were lost and severe damage occurred throughout the area.
4. Congratulated Council Member Ashman for his leadership and the vision of everyone involved with the success of the Gaithersburg Book Festival.

#### **Mayor Katz**

1. Noted the two individuals he introduced (Mark Shriver and John Jenkins) during the Gaithersburg Book Festival. Mr. Jenkins mentioned that he got his start writing for the Sword and Shield, Gaithersburg Middle School newspaper. He went on to write the first full biography about Chief Justice Rehnquist.
2. Announced a work session will be held on Tuesday, May 28, to discuss the Middle Great Seneca Watershed Assessment Plan.
3. Announced the next regular meeting of the Mayor and City Council will be held on Monday, June 3, 2013, 7:30 p.m. in the City Hall Council Chambers.

### **VIII. FROM THE CITY MANAGER**

1. Echoed thanks to Council Member Ashman for recognizing City staff and

their efforts during the Gaithersburg Book Festival.

2. Referred to the West Diamond Avenue Park and Ride lot and thanked the Maryland State Highway Administration for the installation of signs regulating parking of commercial and recreational vehicles. Stated that City Police will enforce the parking restrictions at the lot.
3. Mentioned early voting and the request from Montgomery County to use the Activity Center at Bohrer Park for ten (10) days in June and ten (10) days in October of 2014 for activities. City Attorney Board is reviewing draft lease documents received from the County's Board of Elections.
4. Completed and reviewed proposals received from consultants to lead the search for the Human Resources Director position. Interviews were conducted by telephone and in person. The search will be launched over the next few weeks.

## **IX. ECONOMIC DEVELOPMENT UPDATE**

City Manager Tomasello reported that Economic Development Director Lonergan is currently attending the International Council of Shopping Centers Conference in Las Vegas.

## **X. ORDINANCES / RESOLUTIONS / REGULATIONS**

### **A. Resolution of the Mayor and City Council Adopting the Fiscal Year 2014 Strategic Plan for the City of Gaithersburg**

City Manager Tomasello presented the revised FY'14 Strategic Plan for the City of Gaithersburg. The Mayor and City Council reviewed the draft Strategic Plan at its February 25, 2013 Planning Retreat and provided input which was incorporated into the final document. He thanked the Mayor and City Council and staff for their input. Once adopted, the Fiscal Year 2014 Strategic Plan will supersede previously adopted versions and may be accessed via the City website at <http://www.gaithersburgmd.gov/Budget>.

Motion was made by Michael Sesma, seconded by Jud Ashman, that a Resolution of the Mayor and City Council Adopting the Fiscal Year 2014 Strategic Plan for the City of Gaithersburg (Resolution No. R-36-13), be approved.

Vote: 4-0

### **B. Introduction of an Ordinance to Amend Chapter 16 of the City Code, Entitled "Peddlers, Hawkers and Solicitors," so as to Amend § 16-6 Entitled "Same-Revocation"**

Planner Seiden introduced the proposed text amendments. Following a lengthy and contentious special exception hearing in 2012, the Board of Appeals identified multiple housekeeping and substantial text amendments that would enable the Board to review special exception, variance and administrative review petitions with more precision. The Board met over several work sessions to identify and propose revisions, predominantly to Chapter 24 the Zoning Ordinance and some amendments to Chapter 16. Staff recommended that the City Council vote to introduce and notify the public that a hearing will be held on July 1, 2013.

Motion was made by Jud Ashman, seconded by Ryan Spiegel, that an Ordinance to Amend Chapter 16 of the City Code, Entitled "Peddlers, Hawkers and Solicitors," so as to Amend § 16-

6 Entitled "Same-Revocation", be introduced.

Vote: 4-0

- C. **Introduction of an Emergency Ordinance to Amend Chapter 2 of the City Code Entitled "Administration," Article II Entitled "Municipal-County Relations," Section 2-6 Entitled "Exemption from Montgomery County Legislation and Regulations With the City" so as to Delete the Provisions of Chapters 16 and 19 of the Montgomery County Code Entitled "Elections" and "Erosion, Sediment Control and Storm Water Management", Respectively, as Being Applicable and Enforceable Within the City**

City Attorney Board presented the above emergency ordinance and recommended that the City Council vote to introduce and notify the public that the hearing will be held on June 3, 2013. Staff proposed to delete the provisions of Chapter 16 of the County Code from applicability within the City as the provisions in the County Code establish County election districts, referendum petition procedures, Charter referendum procedures and special election procedures when there is a council vacancy. The City currently regulates all of these areas either through the Charter or Article 23A of the Annotated Code of Maryland and the County provisions conflict with current City laws.

Staff also proposed to delete the provisions of Chapter 19 of the County Code from applicability within the City as Chapter 19-35 establishes the County water quality protection charge. The City has included its own water quality protection charge in the FY'14 Fee Schedule and will be pursuing a study to recommend a future rate structure for the City. Deletion of the County Code provisions will allow the City to collect the past fee until such time as a new fee structure is developed. Staff is also looking to hire a consultant to make some additional recommendations to further implement water protection charges for the City. The ordinance is being introduced as an emergency due to the water quality protection charge that is required to be effective July 1, 2013.

Motion was made by Cathy Drzyzgula, seconded by Michael A. Sesma, that an Emergency Ordinance to Amend Chapter 2 of the City Code Entitled "Administration," Article II Entitled "Municipal-County Relations," Section 2-6 Entitled "Exemption from Montgomery County Legislation and Regulations With the City" so as to Delete the Provisions of Chapters 16 and 19 of the Montgomery County Code Entitled "Elections" and "Erosion, Sediment Control and Storm Water Management", Respectively, as Being Applicable and Enforceable Within the City, be introduced.

Vote: 4-0

- D. **Resolution of the Mayor & City Council Authorizing the City Manager to Execute a Fourth Amendment to Annexation Agreement (X-161) for Monument Corporate Center/Wells REIT – Gaithersburg MD LLC**

City Attorney Board provided background on the fourth amendment to Annexation Agreement – X161 which was presented to the Mayor and City Council on May 6, 2013 to allow a public comment period. The City annexed approximately 122 acres of land into its corporate boundaries in 1992 (X-161) and entered into an

Annexation Agreement with International Business Machines (IBM), the owner of the property at that time for development of the annexed lands. The Annexation Agreement has been amended three times since the original Agreement, with the most recent amendment occurring in 2008. Baywood Hotels, Inc (MCC LAND, LLC), owner of Unit Four Monument Office Park, which is the Hampton Inn hotel site, is seeking a fourth amendment to the Annexation Agreement in order to phase the required payment of the \$400,000.00 instead of having a onetime payment. City Attorney Board mentioned that no public comments had been received. She reiterated that the payments would be secured with a bond. It was noted that the proposal is being entertained to allow the flexibility to move the project forward.

Motion was made by Michael A. Sesma, seconded by Jud Ashman, that a Resolution of the Mayor & City Council Authorizing the City Manager to Execute a Fourth Amendment to Annexation Agreement (X-161) for Monument Corporate Center/Wells REIT – Gaithersburg MD LLC (Resolution No. R-37-13), be approved.

Vote: 4-0

## **XI. STAFF GUIDANCE**

- A. **Sponsorship of an Ordinance to Amend Chapter 24 (City Zoning Ordinance), Article I, Entitled, "In General," §§ 24-1 and 24-1.1.; Article III, Entitled, "Regulations Applicable to Particular Zones," Division 1A, §§ 24-22(b) and 24-22(c), Division 1, § 24-25(11), Division 2, §§ 24-29(5) and 24-30(5), Division 4, § 24-43A(2), Division 5, § 24-57(6), Division 6, § 24-66A(4), Division 7, §§ 24-75(10) and 24-175A(1), Division 8, §§ 24-86(10) and 24-86A, Division 10, §§ 24-102.A(10) and 24-102B(1), Division 11, § 24-111(13) and 24-112(6), Division 12, §§ 24-117(27) and 24-118(9) and 24-118(10), Division 13, §§ 24-123(4) and 24-123a(1), Division 14, § 24-136f.(6), Division 17, § 24-151(17), Division 18, §§ 24-160A(12) and 24-160B, Division 19, § 24-160d.3(D); Article IV, Entitled, "Supplementary Zone Regulations," § 24-167A(D)2.(A)(1), and Article VII, Entitled, "Board of Appeals"**

Planner Seiden presented the second part of the proposed text amendment mentioned above and identified by the Board of Appeals to review their cases more properly. Because it is a change to the Zoning Ordinance or a Text Amendment, §24-195 requires that either the City Council or the Planning Commission sponsor the application. Staff recommended that the City Council vote to sponsor the text amendments and notify the public that a joint public hearing will be held on Monday, July 1, 2013. Clarification was given on submitting a petition to ensure that the City Code and the Board's Rules of Procedures were clear and consistent.

Motion was made by Michael A. Sesma, seconded by Cathy C. Drzyzgula, that an Ordinance to Amend Chapter 24 (City Zoning Ordinance), Article I, Entitled, "In General," §§ 24-1 and 24-1.1.; Article III, Entitled, "Regulations Applicable to Particular Zones," Division 1A, §§ 24-22(b) and 24-22(c), Division 1, § 24-25(11), Division 2, §§ 24-29(5) and 24-30(5), Division 4, § 24-43A(2), Division 5, § 24-57(6), Division 6, § 24-66A(4), Division 7, §§ 24-75(10) and 24-175A(1), Division 8, §§ 24-86(10) and 24-86A, Division 10, §§ 24-102.A(10) and 24-102B(1), Division 11, § 24-111(13) and 24-112(6), Division 12, §§ 24-117(27) and 24-

118(9) and 24-118(10), Division 13, §§ 24-123(4) and 24-123a(1), Division 14, § 24-136f.(6), Division 17, § 24-151(17), Division 18, §§ 24-160A(12) and 24-160B, Division 19, § 24-160d.3(D); Article IV, Entitled, "Supplementary Zone Regulations," § 24-167A(D)2.(A)(1), and Article VII, Entitled, "Board of Appeals", be sponsored.

Vote: 4-0

**XII. FROM THE CITY ATTORNEY / OTHER STAFF**

No additional report from the City Attorney or other staff.

**XIII. CORRESPONDENCE**

- A. **From Staff**
- B. **From Outside**

**XIV. ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at approximately 8:35 p.m.